COURT NO.2

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 167 of 2004

Ensco Maritime Ltd.
(earlier known as Dual Offshore Ltd.)
As agent of Mr. Stephen Henry Holloway
C/o Nangia & Company,
Chartered Accountants,
75/7 Rajpur Road, Dehradun

.....Appellant

Versus

The Commissioner of Income Tax, Dehradun

... Respondents

Ms. Krishi Shukla, Advoacte for the appellant.
Mr. P. Maulekhi, Advocate for the respondent.

Dated: May 2, 2006

Coram: Hon. P.C. Verma, J.
Hon. B.C. Kandpal, J.

Both the parties are ready to argue the matter today.

2. This appeal has been preferred against the consolidated order dated 26.07.2004 for the assessment year 1998-99, passed by the Income Tax Appellate Tribunal (Bench 'F' New Delhi).

3. The learned counsel for the parties agree that only the following questions of law arise in this appeal for the determination. They do not press the rest of the questions framed in the appeal:-

1. *"Whether, the learned I.T.A.T. has erred in law in holding that the appellants have failed to satisfy the condition that 'the remuneration is not deductible in computing the profits of an enterprise chargeable to tax in that other State'?"*
2. *"Whether, the learned I.T.A.T. has erred in law in holding that the appellants are not governed by the provisions of the Agreement for Avoidance of Double Taxation (AADT)?"*

4. The aforementioned questions were answered by a Division Bench of this Court {in which one of us (P.C.Verma,J.) was a member} in case of *"Secdo Forex International Inc. Vs. The commissioner of Income Tax and another",* which was decided on 22.07.2005 in Income Tax Appeal No. 165 of 2001 and other connected cases. In the said judgment, the questions framed in the said appeal were answered in favour of the Revenue.

5. Following the above-mentioned judgment of a Division Bench of this Court, we dismiss this appeal.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

Rajeev Dang